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PACIFIC  TELESIS
Group-Washington

March 1, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

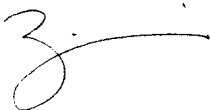
Dear Mr. Caton:

Re: *WT Docket No. 96-18, Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems; PP Docket No. 93-253, Implementation of Section 309(j) of the Communications Act—Competitive Bidding*

On behalf of Pacific Bell, please find enclosed an original and six copies of its "Comments on Interim Licensing Rules" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosure

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Revision of Part 22 and Part 90 of the
Commission's Rules to Facilitate Future
Development of Paging Systems

Implementation of Section 309(j)
of the Communications Act --
Competitive Bidding

WT Docket No. 96-18

PP Docket No. 93-253

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PACIFIC BELL COMMENTS ON INTERIM LICENSING RULES

Pacific Bell hereby respectfully comments on the interim licensing rules proposed by the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹

I. Introduction

The Commission intends to revise the regulatory schemes for both common carriage and private carrier paging services. By standardizing, simplifying, and streamlining licensing procedures for both services, the Commission intends to encourage an environment that promotes growth and competition in the paging industry. This NPRM also seeks greater

¹ In the Matter of Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems. Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, WT Docket No. 96-18, PP Docket No. 93-253, Notice of Proposed Rule Making, FCC 96-52 (released February 9, 1996) (NPRM).

regulatory symmetry for paging services with other Commercial Mobile Radio Services. To that end, the NPRM proposes to license paging carriers on a wide-area geographic basis in contrast to the current site by site licensing. It also proposes to adopt competitive bidding rules for mutually exclusive paging applications.

The Commission also proposes interim licensing rules to govern new applications, pending applications and modifications of existing licensees' systems during the consideration of the issues raised by the NPRM. By these comments, we respond solely to the Commission's proposed interim licensing rules.²

II. Incumbent Licensees Should Be Permitted To Modify or Extend Their Systems To Contiguous Areas Beyond Their Existing Interference Contours.

The Commission's interim licensing rules properly recognize the need for incumbent licensees, such as Pacific Bell, to continue operating their businesses to meet public demand for paging services during this rulemaking.³ We agree that incumbent licensees should be permitted to add sites to existing systems or to modify existing sites to fulfill customer demands. The Commission's proposal to permit additions or modifications that do not expand the interference contour of the incumbent's existing system, however, is only half a solution. Limiting site additions or modifications to those within the interference contour of the existing system, or alternatively permitting only secondary site authorizations for expansions beyond those contours will not accomplish the Commission's intent of enabling incumbent licensees to

² Comments on the proposals for wide-area geographic licensing and competitive bidding for mutually exclusive licenses are due by March 18.

³ NPRM, para. 140.

meet the demands of the marketplace during the pendency of these proceedings. Restricting expansions or modifications only within the interference contour may result in incumbent carriers being unable to provide service to existing customers who move or whose friends and family move to new or expanding communities on or just beyond their carrier's existing service contours. Similarly, existing business customers who grow and require services in areas just beyond the existing service contour will be unable to obtain full coverage. These situations are particularly problematic in high growth metropolitan areas. Expansion licensed only on a secondary site basis is also unsatisfactory in that it subjects the carrier to unacceptable business risk and the customer to the potential for service disruption. To avoid these problems, carriers should be permitted to expand or modify their existing systems to sites contiguous with their existing interference contours on a primary basis.

Permitting incumbent licensees to expand to contiguous areas is especially suitable for licensees of the lower band common carrier paging channels where most channels have been licensed. The lower band channels serve significant numbers of customers. Given the length of time that licensees have held licenses for these lower band channels, the few scattered unlicensed channels available, and geographic license coverage rules that generally favor incumbents, it is unlikely that new applicants will have much interest in geographic licenses for these channels. Permitting the incumbent licensee to expand to contiguous areas during this proceeding should have little, if any, effect on potential new licensees. However, allowing expansion and modification to contiguous sites would permit incumbent licensees to meet marketplace demands.

III. The Commission Should Permit Lower Band Applications Filed Before January 8 To Be Processed Even If They Are Mutually Exclusive Or Subject To Competing Applications.

The interim rules propose to permit the processing of non-mutually exclusive VHF band CCP applications under existing rules, provided that the 30-day window for filing competing applications has closed. Applications filed prior to January 8, 1996 will be processed if they are not mutually exclusive.⁴

We agree with the need to move forward on lower band common carrier applications. However, there is no reason for the Commission to hold up the processing of mutually exclusive applications if the parties are able to resolve the issues and reach agreement. In those cases, the proposed rule is not in the public interest because it will unnecessarily delay meeting customer demand and can create a myriad of problems for the parties that could easily be avoided. Applicants have incurred engineering and application costs -- for example, filing fees or arrangements to meet the Commission's requirements of having "obtained reasonable assurance that all antenna sites specified in their applications are available for the proposed use" at the time of filing.⁵ Suspending processing will prevent applicants from realizing any return on these expenses. Arrangements made for antenna sites may become uneconomical or may be jeopardized if the Commission's decisions are not made quickly. Application data may be stale. When finally granted, an application may even be unsuitable for a carrier's changed circumstances if the decision-making period is prolonged. And during the interim, the public demand which caused the carrier to seek additional licenses continues to be unserved.

⁴ NPRM, para. 146., n. 277.

⁵ 47 C.F.R. 22.115 (a)(1).

These problems can be easily avoided by permitting pending mutually exclusive applications which are resolved by the parties to be processed and not held in abeyance until the conclusion of the NPRM. Parties to the application who are able to resolve the mutually exclusive situation would be able to provide needed service to their customers in a timely manner. This approach will not impact any persons' opportunity to later obtain a geographic license. Only if the parties are unable to resolve the mutually exclusive status of the pending applications should the Commission defer the resolution of the applications.

Processing these resolved mutually exclusive applications during the pendency of this proceeding will also reduce the backlog of applications to be processed after the conclusion of the NPRM without harming notions of fairness. Continuing to process as many applications as appropriate while the Commission develops new rules also promotes efficient use of Commission resources as well as furthers the Commission's goal of encouraging use of valuable spectrum. There is no good reason to keep spectrum fallow by holding up licenses that would have been granted but for the pendency of the Commission's NPRM.

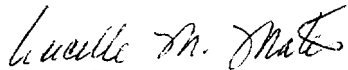
IV. Conclusion

The Commission will deal with the substantive issue of standardizing licensing regulations for paging services according to the schedule set out by the NPRM. However, because existing licensees must continue to meet customer demands for paging services during the pendency of the rule making, interim rules for incumbent licensees are appropriate. Incumbent licensees should not be hindered in our obligation to provide service. We must continue to be able to meet our service commitments to our customers. We urge the Commission to adopt the interim licensing rules that permit incumbent licensees to add to or modify existing

sites that are contiguous to the incumbent's existing system and to continue processing timely
filed mutually exclusive applications that have been resolved by the parties.

Respectfully submitted,

PACIFIC BELL



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Date: March 1, 1996